

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, April 6, 2009 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, Newland, NC.

Members Present: Kenny Poteat, Chairman; Phyllis Forbes, Vice-Chairman; Scott Heath; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:30 p.m.

Chairman Poteat advised that there would be a time of public comment but if someone wanted to speak to an agenda item they must sign up on the sheet with the clerk.

Scott Heath led prayer.

Public Comment

Ken Anderson, Pastor of the Toe Valley Charge of the United Methodist Church which includes Pine Grove United Methodist Church, explained that a Duke Endowment Grant was received for \$55,000 for a community garden project which has been started across from the old Joe Howell's Store in Ingalls. There is about 1 ¼ acres of land and people in the community will be able to be involved with this project for a \$5.00 a year membership fee. Mr. Anderson stated that it was anticipated that there will be enough food grown to give to Reaching Avery Ministry in Avery County and Shepherd's Staff in Mitchell County. Mr. Anderson introduced Seth Nivens who will be leading this community garden project.

Chairman Poteat stated that the Board applauded this project.

Jerry Moody, Avery Agriculture Extension Director, invited the Board to a Report to the People for Avery County Agriculture Extension on April 24, 2009 at 11:00 a.m. at the Mountain Glen Clubhouse. Mr. Moody stated he was also here for Avery County Little League Baseball and that two of the Commissioners Martha Hicks and Scott Heath were at the opening ceremony on Saturday and had thrown out the first ball. Mr. Moody gave Martha Hicks and Scott Heath a certificate and signed baseball.

Martha Hicks stated that she appreciated the parent's involvement with their children in Avery County Little League.

Board Appointments

North Carolina Home & Community Care Block Grant

Robert Wiseman, County Manager, stated that in order for the budget process to begin for Aging Services for Fiscal Year 2009, the Commissioners must appoint a lead agency to head the planning and budget process. It is requested that Avery Senior Services be designated as the lead agency for the Home & Community Care Block Grant. The attached list of individuals is nominated to serve on the H&CCBG Advisory Committee for Fiscal Year 2010. Rachel Deal advised that the Home & Community Care Block Grant is the main service that does meals and home meals and that it is a very good service for the Seniors. Chairman Poteat stated that this was a very capable list of people for this advisory committee.

Motion by Scott Heath and second by Glenn Johnson to designate the Avery Senior Service as a lead agency for the Home & Community Care Block Grant and the fourteen (14) persons listed to be nominated to serve on the Home & Community Care Block Grant Advisory Committee for the Fiscal Year 2010. Motion unanimously approved.

Recess

Chairman Poteat called for a brief recess.

Public Hearing – Subdivision Ordinance

Motion by Phyllis Forbes and second by Martha Hicks to go out of Regular Session and enter into a time of Public Hearing for the purpose of receiving comments on the Subdivision Ordinance at 3:50 p.m.

Chairman Poteat read aloud the notice for the public hearing. The purpose of the public hearing is to receive public comment regarding proposed changes to the Avery County Subdivision Ordinance, including, but not limited to, technical changes pertaining to numbering, forms, and incorporation of all prior approved changes.

Michaelle Poore, County Attorney, stated that the existing Subdivision Ordinance was enacted in 1993 and it was recorded then and has been changed a few times since then and all the changes have been recorded in different places in the Register of Deeds and in discussion with the Planning and Inspections

Department it was suggested that it would be helpful for them to have all of the changes that have already been made incorporated into one document. It is difficult for the Planning and Inspections Department to give the existing document to the public with all the changes not combined. The County Attorney advised that the changes were discussed at the past two planning board meetings with a report to the Board of Commissioners and the planning board voted to make the technical changes to the ordinance as shown in the report. This consists of renumbering the paragraphs, making it easier to read by changing the punctuation, etc. There are 33 changes which includes incorporating the prior changes. The County Attorney stated that there was a prior requirement that after the Board had approved the final plat the property owner had 12 months to record their plat and after discussion the planning board felt it would be appropriate to change that to 6 months which is one change that has been recommended by the planning board. It was originally 30 days and that did not give the developers time for the milars to be made and brought back to the county. The other thing that changed is the forms to the Subdivision Ordinance which have been revised. The copy of the ordinance in the packet includes all of the fire approved changes and the change to section 309 and the revised forms.

There were no public comments.

Motion by Scott Heath and second by Martha Hicks to go out of a time of Public Hearing and enter back into the Regular Session at 4:01 p.m. Motion unanimously approved.

Chairman Poteat stated that the Board was back in a time of regular session after a time of public hearing.

Motion by Phyllis Forbes and second by Glenn Johnson to approve the Subdivision Ordinance for Avery County, North Carolina recognizing those changes recommended by the Avery County Planning Board. Motion unanimously approved.

Chairman Poteat said that the Board appreciated the work that the Planning Board and the County Attorney had done on updating the Subdivision Ordinance.

Chairman Poteat advised that the agenda would be amended to add "Nelson's Surplus Goods" under County Commissioner & Staff Items.

Tax Collector Report – Mary Daniels

Mary Daniels, Tax Collector, presented the total collection for the month of March 2009. The Total Collection for March 2009 is \$607,006.74.

Motion by Phyllis Forbes and second by Glenn Johnson to approve the Tax Collector's Report for the month of March 2009 as read. Motion unanimously approved.

The Tax Collector stated that the collection rate is 93.80% which is about the same as last year. She said that she had been in contact with some of the larger accounts and had agreed to payments. The advertising for delinquent taxes will be during the month of April.

Tax Assessor's Report – Phillip Barrier

Real and Personal Releases

Phillip Barrier, Tax Assessor, reported that the Real and Personal releases for March 2009 were County Tax \$1,408.45 and Fire Tax \$131.22.

Motion by Glenn Johnson and second by Scott Heath to approve the Real and Personal Releases for March 2009 as presented. Motion unanimously approved.

Real and Personal Refunds

The Real and Personal Refunds for March 2009 were presented with County Tax Refund being \$398.46 and Fire Tax Refund being \$43.02. This was correction on a square footage of a new house at Beech Mountain.

Motion by Phyllis Forbes and second by Martha Hicks to approve the Real and Personal Refunds for March 2009 as presented. Motion unanimously approved.

Motor Vehicle Releases

The Motor Vehicle Releases for the month of March 2009 were County Tax \$21.88 and Fire Tax \$2.35.

Motion by Martha Hicks and second by Glenn Johnson to approve the Motor Vehicle Releases for March 2009 as presented. Motion unanimously approved.

Board of Equalization and Review

The Tax Assessor stated that the Board of Equalization and Review for 2009 would need to be appointed. He had seven applicants and needed a five member board with one alternate. Chairman Poteat stated that the top five people would serve as the members and the bottom two would be the alternates.

Chairman Poteat advised the Board that the low score would be the ones chosen and that the ballots must be signed by each Commissioner and these ballots would be open for public inspection and would be on file in the clerk's office.

Chairman Poteat called a two minute recess to tally the votes.

Chairman Poteat read aloud the 5 members of the Board of Equalization and Review as follows: Don Baker, Vernon Carpenter, Hugh Fields, Jayne McNeil, Amy Vaughn. The two alternates would be Julie Loven and Dede Traver.

Don Baker received 9 votes (2 first place, 2 second place, and 1 third place)
Vernon Carpenter received 21 votes (2 third place, 2 fourth place, and 1 seventh place)
Hugh Fields received 22 votes (2 second place, 1 fifth place, 1 sixth place, 1 seventh place)
Julie Loven received 25 votes (1 second place, 1 fourth place, 2 sixth place, 1 seventh place)
Jayne McNeil received 23 votes (1 third place, 2 fourth place, 1 fifth place, 1 seventh place)
Edith "Dede" Traver received 25 votes (1 first place, 1 fifth place, 2 sixth place, 1 seventh place)
Amy Vaughn received 15 votes (2 first place, 1 third place, 2 fifth place)

Chairman Poteat voted as follows: Amy Vaughn 1, Hugh Fields 2, Don Baker 3, Vernon Carpenter 4, Jayne McNeil 5, Julie Loven 6, Edith "Dede" Traver 7.

Phyllis Forbes voted as follows: Edith "Dede" Traver 1, Don Baker 2, Vernon Carpenter 3, Jayne McNeil 4, Amy Vaughn 5, Hugh Fields 6, Julie Loven 7.

Scott Heath voted as follows: Amy Vaughn 1, Don Baker 2, Vernon Carpenter 3, Jayne McNeil 4, Edith "Dede" Traver 5, Julie Loven 6, Hugh Fields 7.

Martha Hicks voted as follows: Don Baker 1, Hugh Fields 2, Jayne McNeil 3, Julie Loven 4, Amy Vaughn 5, Edith "Dede" Traver 6, Vernon Carpenter 7.

Glenn Johnson voted as follows: Don Baker 1, Julie Loven 2, Amy Vaughn 3, Vernon Carpenter 4, Hugh Fields 5, Edith "Dede" Traver 6, Jayne McNeil 7.

The Tax Assessor stated that the first meeting for the Board of E&R would be April 27, 2009 at 9:00 a.m. in the Tax Assessor's Office and any citizen that feels the Tax Assessor's Office has not been fair in the assessment of their property can make an appointment with the Board of E&R. He also stated that if the citizen felt like they were not fairly treated with the Board of E&R, the citizen can contact the state of North Carolina.

The Tax Assessor advised that the sales statistics for last week was \$6,000,000 and this would have resulted in \$24,000 in land transfer fees.

Avery Youth Opportunities Program

Angie Miller, Jenna Crawley and Bobbie Willard spoke to the Board regarding the Avery Youth Opportunities Program. Ms. Crawley stated that this program currently served 237 students in Avery County with 82% of these students attending the program on full scholarships or partial scholarships. The program does send home boxes of free food to families. This program also helps with the academic issues and tutoring. There are 30 employees that work part-time. Bobbie Willard reported that the SOS portion of the Avery Yo Program funded through the NC Department of Juvenile Justice has been eliminated from the budget and will effect over 14,000 youth in the state of North Carolina. The County Manager asked how much funds would be lost with the SOS portion. Bobbie Willard stated that \$72,832.00 would be eliminated.

Energy Exchange

Heather Dawes, Director of Energy Exchange, gave a slide presentation with a historical review of the Energy Exchange and what the Energy Exchange plans to do in the future. She stated that through the greenhouse committee it was decided to lease the greenhouses to an Avery County grower just for the expenses of running the greenhouses. Chairman Poteat said that the Board appreciated Heather Dawes and Phillip Johnson presenting the updates regarding the Energy Exchange. Chairman Poteat questioned who owned the land that the greenhouses were on. The County Manager answered that the Morrison Airport Foundation leased the property to Avery County for 25 years and then Avery County leased the property to Energy Exchange. Since that time the 25 acres that was owned by the Morrison Airport Foundation now belongs to the Avery County Airport Authority. The County Manager stated that legal counsel would need to look into the change in ownership as far as the Energy Exchange subleasing the property. The County Attorney stated that all the leases needed to be reviewed.

Toe River Health District

Jesse Greene, Toe River Health District Director, stated that the Board had requested a follow up report for the onsite waste water fee structure and the fee structure was presented to the Toe River Board of Health for review. Allen Hughes, Environmental Health Director, reported that the Toe River Health District is the only district that charges waste water fees by square footage; all other counties in the state charge by the number of bedrooms. Mr. Hughes stated that he had contacted Terry Pierce, Director of the Division of Environmental Health, regarding the comparisons in charging the fees by the number of bedrooms or by square footage. Mr. Pierce replied that if the Board of Health wanted to "give a break" to

lower income homeowners then using the square footage method would be the most reasonable method. Mr. Hughes stated that the Toe River Health District was not the highest in the state price wise. Phyllis Forbes advised that this program cannot generate any revenue above and beyond what it takes for the program, however, if enough revenue is not generated for the program it has to come from the budget process. She also stated that if the fee was changed back to the bedroom method this would generate less money and thus would have to come from the budget. Ms. Forbes advised that this is a user fee. Scott Heath said that he brought this subject up because we are the only system in the state that uses square footage for the waste water fee. He stated that his concern is that we have folks in Avery County who are affluent that pay a big chunk for property taxes but does not use a lot of the services and that the County needs to be careful not to target just one group. Chairman Poteat replied that there was never any intent by the Board of Commissioners to target any group with the structure of this fee. The County Manager stated that it had been 10 years before the rate for the waste water fee had been adjusted and then it was a “culture shock”. He advised that when there is a user fee that is not breaking even then the citizens who don’t use the services are picking up the slack. Chairman Poteat asked Phyllis Forbes, member of the Toe River Health District, to address a reasonable “user” fee that would cover the expenses and not necessarily target a group and bring back the decision to the Board. Allen Hughes stated that the state of North Carolina calculated 60 gallons per person of waste water per day.

Chairman Poteat advised that there was a policy that is in place which states a change in agenda item would require a unanimous vote by the Board to add an item to the agenda.

Motion by Scott Heath and second by Phyllis Forbes to add Nelson’s Surplus Goods to the agenda. Motion unanimously approved.

Nelson’s Surplus Goods

Chairman Poteat reported that Mr. Steve Nelson, local business nearby, has purchased over the past 1-2 years considerable items that are for sale and Glenn Johnson, Martha Hicks, the County Manager and the Finance Officer has taken a look at these items. Chairman Poteat stated that there was some quarter of a million to \$300,000 in merchandise and Mr. Nelson has offered this merchandise to the County for approximately 10% of that amount. He said that the concern was could the County use a majority of this merchandise and apparently there is a considerable amount the County can use but a whole lot that the County cannot use. Chairman Poteat advised that there were some concerns by other Board members and that he felt at this time that the Board should not pursue this any further and decline the offer. Phyllis Forbes stated she would like to hear from the County Manager regarding this issue. The County Manager said there was a substantial amount that the County might be able to use and is probably well worth what Mr. Nelson is asking but there would be a great amount that the County could not use which would require surplus sales and probably some left over that would not sell. Glenn Johnson stated that when he first looked at all of the merchandise that he was excited about it but the more he thought about this the more he felt that it should not be pursued by the County. Scott Heath advised that when he was asked to take a look at this that his immediate reaction was this would be something that would be referred to the County Manager. Martha Hicks said she went to look at the merchandise and when she started looking at all the little things that the County could not use she felt it was in the best interest of the County to decline the offer. Chairman Poteat asked the County Manager to contact Mr. Steve Nelson and relay to him the Board’s appreciation for the tremendous offer and let him know why the County could not enter into a contract with him at this time.

The County Manager requested that the Board consider amending the agenda to put the Sheriff before the County Manager’s Report due to the Sheriff needing to leave for a meeting at Elk Park Town Council.

Grant Requests – Avery County Sheriff’s Department

Troy Cook reported to the Board that a grant had been approved that is 100% Federal money with no match required that had been applied for last year and it is through the Governor’s Highway Safety Program. The items requested were traffic cones, traffic vests, lights, rechargeable flashlights and a generator. Mr. Cook stated that he needed the Board’s approval to accept this grant. Chairman Poteat questioned if this was 100% grant monies with no County match. Mr. Cook stated this was 100% Federal money with no County match.

Motion by Scott Heath and second by Martha Hicks to recognize the 100% grant from the Highway Safety Equipment Project Contract through the North Carolina Governor’s Safety Highway Program in the amount of \$14,335.00. Motion unanimously approved.

Mr. Cook advised that there is money from the Recovery Act directed to rural law enforcement. There are some opportunities available which include investigator positions that would be 100% paid for the first two years and an overtime grant that would be for drug investigation which would be a 100% federal grant. Mr. Cook stated he would apply for that grant collectively with Watauga, Avery, Boone Police, Newland Police, etc. The grant for the three positions would be a drug investigator; a crime scene investigator; and an elderly people scam investigator. Mr. Cook said he did not anticipate getting all three positions. Chairman Poteat stated that out of experience grants are wonderful and should be taken advantage of usually but at the end of the two years the County may feel it cannot continue these positions or the

County is faced with an expenditure and the Board must be aware of that. Sheriff Kevin Frye stated that he was fully aware of the possibility that after two years that these positions would not be funded.

Sheriff Frye introduced Dennis Quackenboss, the head of the chaplaincy program in Avery County.

Further discussion regarding the grants. The County Manager advised that there has been grant after grant that he had been involved in where a position is funded 2-3 years and after that it is a requirement to continue that position or the money will have to be reimbursed.

Motion by Phyllis Forbes and second by Martha Hicks to allow the Avery County Sheriff's Department to apply for the 100% grants for the three positions; drug investigator, crime scene investigator, elderly people scam investigator.

Chairman Poteat advised that this in no way implies that the positions will continue after two years have elapsed.

Sheriff Frye stated that the grant can be turned down. He said that when the grants are approved then he will come back before the Board and the Board will decide whether or not to accept the grants.

Motion unanimously approved.

Troy Cook stated that the overtime grant would also need to be approved and this is 100% matching grant.

Motion by Scott Heath and second by Phyllis Forbes to approve the Avery County Sheriff's Department to apply for an overtime grant that is a 100% grant. Motion unanimously approved.

County Manager Updates – Robert Wiseman

Jail Updates

Robert Wiseman, County Manager, stated that the preliminary plans for the jail are in the final stages and there have been several changes that have been initiated by the jail consultant. The last feedback from Beeson, Lusk and Street is the plans are down to a punchlist of six.

Subdivision Ordinance

The County Manager advised at the last meeting it was discussed to have the NC Department of Community Assistance review Avery County's Subdivision Ordinance. He stated that has not been done yet because he was waiting for the final approval of the changes to the Subdivision Ordinance.

Fall Creek Volunteer Fire Department

The County Manager stated at the last meeting Tony Hunter, Chief of Fall Creek Volunteer Fire Department, came before the Board requesting that the area in the old Beech Mountain section that is covered by the Avery County EMS services be transferred to Watauga Medics. He said this was being investigated with Jerry Turbyfill and there would be a formal presentation at the next board meeting.

Tax Collector Position

The County Manager advised that the bill for the Tax Collector Position to be appointed was in committee this week and there doesn't appear to be any opposition to this bill. This will go to the House and then to the Senate. Senator Joe Sam Queen has gotten on board and sees no problem with the bill.

Avery County Airport Grant

The County Manager stated that there is one grant that has an extension and will run out the last day of June 2009. This would require a budget amendment at the next meeting if it is approved. The total amount of grants is \$166,667 dollars for runway completion and improvements. Chairman Poteat advised that he found it very commendable that over 2 ½ million dollars has been generated and used by the airport since 2001 at a cost to the County of only \$163,000. He stated it was his understanding that there is a grant for \$106,067 for expansion and upgrade of hangars which would require a 10% match and an additional grant for runway completion which would require a 10% match which brings the total local commitment to \$33,334. There was considerable discussion regarding these grants and when the 10% match would be budgeted. Sam Calvert stated that the Avery Airport Authority was in the process of bidding the runway widening and would have to use one of the grants before July 1, 2009. The County Manager advised that the bids could be let for the runway widening on the assurance that the match money was going to be there. Tim Greene, Finance Officer, stated that this was just a matter of when the County is going to pay the grant money and if the County has not budgeted the match there would be a budget amendment this year and what can be delayed for next year will be put in the 2009/2010 budget. Sam Calvert thanked the Board for helping the Avery Airport Authority.

Financial Assurances- Avery County Landfill

Buddy Norris, Solid Waste Director, stated that Financial Assurances is based on the closure and post closure of the landfill and did not formally exist under previous rules until January 1, 2007 when the rules were strengthened and that was when the Financial Assurance came around for C&D landfills. He said

the County needed to ensure closure and post closure and the way to ensure closure is to close each cell by the requirements set forth. The way to ensure post closure would be at the end of the landfill use when it is completely shut down and it is in a custodial status there would need to be groundwater monitoring and erosion control for 30 years. Tim Greene, Finance Officer, advised with the Financial Assurance that this is basically assuring that the County has the money to close the cells and the landfill and keep the landfill maintained. The County Manager said that what has spawned all of this is when a number of landfills across the state were closed out and did not meet compliance. The counties now are being charged a \$2.00 tipping fee that goes back to the state that is specifically allocated to bring in to compliance those landfills that were closed. He stated that this was part of the landfill permit and this was to ensure that Avery County is not going to get half way through the project and quit.

Motion by Scott Heath and second by Phyllis Forbes that would assure that Avery County is accountable for compliance with financial requirements as dictated by statute related to construction, closure and post closure requirements of Avery County landfills. Motion unanimously approved.

Finance Officer Report – Tim Greene

Tim Greene, Finance Officer, stated that Avery County does not have a formal investment policy but enclosed in the Board's packet is a copy of statute 159-30 that explains that governments can only invest money in certain things. The General Fund account for daily operating is with Wachovia and then the bulk of the money is kept with the NC Management Capital Trust Account. This account invests in any and all of these things that are allowed by statute. If we have a formal investment policy, the Board would dictate what would be invested in, said the Finance Officer. The Finance Officer stated that this year rates are so low the he would like to put some money in some CD's at various banks and there is a program that money can be invested with a company who puts money in banks spreading out in North Carolina in CD's up to the FDIC insurance. The Finance Officer said he wanted to formally request to put some money in CD's and money market accounts. He also said that the NC Capital Trust yield is 1% and upcoming year would probably be 0.7%.

Motion by Glenn Johnson and second by Scott Heath to pursuant to NC General Statute 159-30 that the Avery County Board of Commissioners approve the investment of said Avery County funds in various certificates of deposits, money market accounts and/or NC Management Trust Account.

Martha Hicks questioned how long would the money be in CD's. Tim Greene stated that he would stagger the CD's to 3 months, 6 months, 18 months, etc but the bulk of the money would be left in the NC Capital Trust account.

Motion unanimously approved.

County Attorney Report – Michaelle Poore

Chairman Poteat thanked Ms. Poore for the work she has done on the Subdivision Ordinance.

Michaelle Poore, County Attorney, stated she had no developments or pending matters to report. She said that the Tax Collector would be sending out delinquency letters on tax accounts and then the County Attorney would be starting tax foreclosures.

Approval of Minutes

Motion by Phyllis Forbes and second by Martha Hicks to approve the Regular Session minutes for March 5, 2009. Motion unanimously approved.

Agenda Consent Items

The County Manager stated there is a letter enclosed in the agenda consent items sent to Ms. Sitton. The property that I stated was owned by Elk Park Christian Church is actually owned by the Church of Jesus Christ, said the County Manager.

Agenda Consent Items adopted by consensus of the Board.

Upcoming Meetings

Chairman Poteat stated that beginning in May the meetings will go back to twice a month; May 4, 2009 at 3:30 pm and May 18th, 2009 at 3:30 p.m. The first budget workshop will be Thursday, April 30, 2009 at 4:30 p.m.

Motion by Scott Heath and second by Martha Hicks to adjourn this meeting at 7:00 p.m. Motion unanimously approved.

**Kenny Poteat, Chairman
Avery County Board of Commissioners**

ATTEST:_____
Cindy Turbyfill, Clerk